

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SENSITECH INC.AND DONALD W.  
BERRIAN

Plaintiff,

v.

TIME & TEMPERATURE COMPANY,  
d/b/a TIME 'N TEMPERATURE  
CORPORATION

Defendant.

Civil Action No. 04-11483 (MLW)

**DEFENDANT'S MOTION TO DISMISS OR IN THE  
ALTERNATIVE MOTION FOR A MORE DEFINITE STATEMENT  
PURSUANT TO RULES OF CIVIL PROCEDURE  
12(B)(6) AND 12(E)**

Defendant Time 'N Temperature Company ("TNT") will and hereby does move pursuant to this Court's inherent power and pursuant to Rules of Civil Procedure 12(b)(6) and 12(e) to dismiss the claims or in the alternative for a more definite statement from plaintiff.

This motion to dismiss or in the alternative for a more definite statement is made on the grounds that Sensitech's "bare bones" complaint fails to identify the allegedly infringing products and the reasons upon which Sensitech bases its infringement beliefs and therefore fails to give TNT fair notice of the claims and of the grounds for the same as required by Rule 8 of the Federal Rules of Civil Procedure. Moreover, Sensitech by deliberately failing to identify the allegedly infringing products and its bases for such allegations is misusing the judicial process as a weapon for the economic harassment of TNT.

This Motion is based upon this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the Complaint and Exhibits thereto on file in this case, and any argument which the Court may entertain at the hearing on this matter.

#### REQUEST FOR ORAL ARGUMENT

Defendant requests oral argument on this Motion pursuant to Local Rule 7.1(D).

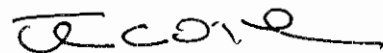
#### LOCAL RULE 7.1(A)(2) CERTIFICATION

This motion is made pursuant to Local Rule 7.1(a)(2). The parties met and conferred via their counsel through a series of letters dated May 17, May 20, May 31 and June 1, 2005. The parties were unable to reach a resolution of this Motion.

This Motion is based upon this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the Complaint and Exhibits thereto on file in this case, and any argument which the Court may entertain at the hearing on this matter.

Respectfully submitted,

CESARI AND McKENNA, LLP



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Dated: June 6, 2005

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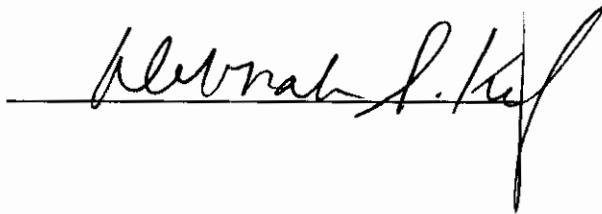
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document is being deposited with the United States Postal Service on June 6, 2005, in an envelope addressed to counsel for plaintiff, Sensitech Inc. and Donald W. Berrian:

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A handwritten signature in black ink, appearing to read "Deborah S. Kuf", is written over a horizontal line. The signature is stylized with a large, sweeping 'D' and a long, vertical stroke at the end.